IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 7119 of 1999

Between:

1. APSRTC rep.by its Managing Director,
Mushirabad.

2. The Regional Manager, APSRTC,
Srikakulam.

..... PETITIONERS

AND

1.State Transport Appellate Tribunal, A.P.,
Hyderabad rep.by its Presiding Officer.

2.The Regional Transport Authority,
Srikakulam, rep.by its Secretary.

3. Sri P.Durga Rao, Bus owner, Palakonda,
Srikakulam district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, especially in the nature of writ of certiorari, calling for the records relating to the impugned order dt. 2-12-98 made in RP.No.26/97 on the file of the State Transport Appellate Tribunal, A.P., Hyderabad, setting aside the order in RC.No.10764/A1/96, dated 10-2-97 of the RTA/Srikakulam and directing grant of permit on the varied route Palakonda RTC Complex to Venkatapuram (via) Ampili to the 3rd respondent and quash the same as being illegal without jurisdiction.

For the Petitioners:MR.K.Srinivasa Rao, Advocate

For the Respondents 1 and 2: The Government Pleader for TRANSPORT

For the Respondent No.3 : None appeared.

The Court made the following Order:

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Petitioner by invoking Certiorari jurisdiction of this Court seeks quashment of the order passed by the 1st respondent-State Transport Appellate Tribunal in R.P.No.26 of 1997, dated
02-12-1998 and cancellation of permit on the varied route Palakonda RTC Complex to Venkatapruam, Ampili etc. granted in favour of the third respondent.

Though notice served on the third respondent, none represents.

The third respondent, who is having existing mofussil stage carriage permit from Palakonda RTC Complex to Venkatapuram via:Vadama, Annavaram, Sankili, Majjiramudupeta and Appapuram, applied before the second respondent-Regional Transport Authority, Srikakulam for grant of variation of the route course by changing one of the via places but keeping the starting point and destination same. But the same was rejected on the ground that the applied variation portion is already served by the A.P.S.R.T.C. under approved schemes and as per Rule 180 of A.P.M.V.Rules, 1989 no variation or extension should ordinarily be allowed. Being aggrieved by the rejection, he carried the matter before the first respondent-State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad and the same was allowed holding that the notified route from Visakhapatnam to Sankili in G.O.Ms.No.625/75 did not permit any grant of permit to future operators and the conditions of the Scheme are similar to the conditions of the scheme in

G.O.Ms.No.606/75 considered by this Court in A.P.S.R.T.C. v. CH.SATYANARAYANARAJU AND OTHERS[1] and in view of the principles laid down in the decision cited supra, the third respondent is entitled for variation and accordingly, allowed the revision directing the Secretary, Regional Transport Authority to grant permit on the varied route.

The proposed route, which is overlapping the route notified in G.O.Ms.No.625/75, is fallen for consideration of this Court in DIVISIONAL MANAGER, APSRTC, VIZIANAGARAM v. STATE TRANSPORT APPELLATE TRIBUNAL, HYDERABAD AND OTHERS[2]. After noticing the judgment (1) supra, this Court held that there shall be complete exclusion of all other persons holding stage carriage permit on the proposed route including partial overlapping.

In view of the same, the reasoning given by the State Transport Appellate Authority allowing the revision filed by the third respondent cannot be sustainable and the same is accordingly set aside.

The writ petition is accordingly allowed. No order as to costs.

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this, Monday, the fourteenth day of June, Two thousand and four.

ASSISTANT REGISTRAR.

// TRUE COPY //

SECTION OFFICER.

14th JUNE, 2004.

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To

The Presiding Officer, State Transport Appellate
Tribunal, A.P., Hyderabad.
The Secretary, Regional Transport Authority,
Srikakulam.
Two CCs to the Government Pleader for Transport, High Court
Buildings, A.P., Hyderabad.
Two CCs.

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[1] 1998(1) APLJ 119

[2] 2001(6)ALD 408 (F.B.)